

### **REMARKS**

The Office Action dated July 13, 2004 has been reviewed. Claims 23 and 29 have been amended to more clearly indicate the present invention as supported in the specification.

In view of the foregoing amended claims and the following arguments, it is respectfully submitted that the claims are in condition for allowance.

### **Rejection of Claims Under 35 U.S.C. §112**

In the Office Action dated July 13, 2004, the Examiner rejected claims 29-34 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Independent claim 29 has been amended to more clearly describe the article having an abrasion resistant coating containing from about 0.1 to about 70 weight percent, based on the total solids of the composition of a colloidal silica component, wherein the colloidal silica component is acidic, basic or neutral as supported in the specification (e.g., paragraphs numbers [0044] and [0045]).

Thus, independent claim 29, as amended, and claims 30-34 depending therefrom all comply with the enablement requirement under 35 U.S.C. §112, first paragraph, and the Examiner is respectfully urged to withdraw the rejection and pass the claims to issuance.

**Rejection of Claims Under the Judicially Created Doctrine of  
Obviousness-type Double Patenting**

In the Office Action dated July 13, 2004, the Examiner provisionally rejected claims 1-28 and 35 under the judicially created doctrine of obviousness-type double patenting over claims 1-28 and 35 of copending application number 10/706,551.

Applicant respectfully submits that the Examiner's rejection under the judicially created doctrine of obviousness-type double patenting is overcome in view of the terminal disclaimer submitted herewith in accordance with the provisions of 37 C.F.R. 1.321(c). The terminal disclaimer shows the subject application is commonly owned with application number 10/706,551. In view thereof, it is respectfully requested that the Examiner withdraw the rejection of claims 1-28 and 35 under the judicially created doctrine of obviousness-type double patenting, as applicable to the claims now pending in the application.

**Rejection of Claims Under 35 U.S.C. §103(a)**

In the Office Action dated July 13, 2004, the Examiner rejected amended claim 23 under 35 U.S.C. §103(a) as being unpatentable over Sawaragi et al. (U.S. Patent No. 5,314,947) in view of Takashita et al. (U.S. Patent No. 6,057,039). Applicant respectfully submits for the reasons set forth below that the Examiner's rejection of claim 23, as amended, is respectfully traversed.

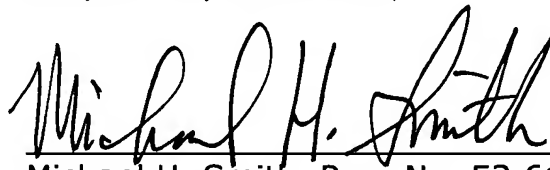
Sawaragi describes a coating composition having a refractive index, enhanced dyeing properties and scratch resistance. The coating composition of Sawaragi includes the use of an epoxy functional silane to provide surface hardness and increased refractive index and the use of a metal oxide sol (including antimony, tin and titanium oxide) to provide transparency, surface hardness and a refractive index. Sawaragi teaches away from the use of a colloidal silica (See Sawaragi comparative example, columns 8 and 9 of Sawaragi). In the Sawaragi comparative example, the replacement of silica for titania results in a very low refractive index product (1.47 compared to non-silica containing formulations, which had refractive indexes from 1.55-1.59). Thus, Sawaragi by itself actually teaches away from the present invention by showing the adverse effects of excluding a metal oxide on the refractive index of a composition. In this case, Sawaragi demonstrates that by adding colloidal silica to a coating composition, a negative result is obtained. Any such Sawaragi coating composition would be disadvantaged through the use of colloidal silica.

Takeshita does not supply the deficiency of Sawaragi, thus, the Examiner's rejection of claim 23, as amended, under 35 U.S.C. § 103(a) cannot be maintained. It is respectfully requested that the Examiner pass amended claim 23 to an expedient issuance.

### **Conclusion**

The foregoing is meant to be a full and complete response to the Office Action mailed July 13, 2004. In light of the amendments to the claims and the arguments made herein, all of the currently pending claims are patentable over the prior art of record. Therefore, it is requested that the Examiner reconsider each and every rejection as applicable to the claims now pending in the application and pass such claims to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael H. Smith", written over a horizontal line.

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